

REMARKS

Favorable reconsideration of this Application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-4 and 9-35 remain pending in the present Application. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 11-13 stand rejected under 35 U.S.C. § 102 as being anticipated by Hsu (U.S. patent No. 5,584,023); Claims 15, 17, 18, 19, 21, and 28-35 stand rejected under 35 U.S.C. § 102 as being anticipated by Iwayama et al. (U.S. Patent No. 5,832,083, hereinafter Iwayama); and, Claims 3 and 16 stand objected to as being dependent upon a rejected base claim.

Applicants appreciatively acknowledge the identification of allowable subject matter as recited in Claims 1-4, 9, 10, 14, 20, and 22-27.

Applicants note that Atalla (U.S. Patent No. 5,588,991), identified at page 7 of the Official Action, seems to be cited in error as it relates to the chemical arts.

REQUEST TO WITHDRAW FINALITY OF REJECTION AS PREMATURE

Preliminary to filing a petition under 37 C.F.R. § 1.181 seeking withdrawal of the outstanding Final Rejection as premature,¹ Applicants provide the following discussion for facilitating supervisory review of the finality of the Official Action dated May 20, 2005 in accordance with MPEP § 706.07 (d).

In response to Applicants' Amendment filed November 24, 2004, the Official Action in the section entitled "Response to Arguments"² asserts:

¹ See MPEP § 706.07 (c).

² See Paragraph 2 of the May 20, 2005 Official Action.

Applicant's arguments filed 1-24-2004 have been fully considered but they are not persuasive.

The applicant argues that Hsu does not teach receiving data in one format, and and compressing the data in a second format. Yet a careful reading of Hsu shows that such **is indeed taught at Claim 1**, where application driven data transforms are performed at first and second logical areas, **and claim 4 where these transforms are taught** as encryption and or compression (emphasis added).

1. The Final Action Improperly Relies on Claims of a Prior Art Patent

The portion of Official Action cited above mischaracterizes Applicants' previous arguments with regard to Hsu, and, improperly rebuts arguments with citations to claims of Hsu.

With respect to the reference to Claims 1 and 4 of Hsu, the rejection of the present Application, based on reference to a patent claim is clearly improper. The Federal Circuit has characterized analysis of prior art patent claims with respect to the patentability of an Application as "a plainly indefensible line of reasoning" (*In Re Benno*, 226 U.S.P.Q. 683, 686, Fed. Cir. 1985) and further stated that:

The scope of a patent's claim determines what infringes the patent; it is no measure of what it discloses. A patent discloses only that which it describes, whether specifically, or in general terms, so as to convey intelligence to one capable of understanding (*See Benno* at 686) (emphasis added)).

2. The Final Action has Confused the Record as to Iwayama.

The portion of the Official Action cited below mischaracterizes Applicants' arguments presented with respect to Iwayama, and, rebuts Applicants' arguments with alleged teachings of a reference not included in the previously asserted rejection.³

In response to Applicants' Amendment filed November 24, 2004, the Official Action in the section entitled "Response to Arguments"⁴ asserts:

³ Claims 15, 17-19, 21, and 28-35 were rejected under 35 U.S.C. § 102 with respect to Iwayama; yet, the Examiner's argument for maintaining this rejection is based upon citation to Hsu.

The applicant argues that Hsu does not teach a comparison between a computation of a computing structure and that of a past computation, yet such is taught by Hsu at col. 12 lines 50-67.

The applicant argues that Hsu fails to teach an external apparatus. Yet such is taught by Hsu at fig. 1 item 20 "Peripheral Devices" (emphasis added).

As can be appreciated, the Official Action rebuts the Applicants' position regarding the Iwayama rejection with features allegedly described in Hsu.

As such, the "final" Office Action of May 20, 2005 does not include a proper rebuttal of Applicants positions with regard to the cited references. In this regard the MPEP states

"In order to provide a complete application file history and to enhance the clarity of the prosecution history record, **an examiner must provide** clear explanations of all actions taken by the examiner during prosecution of an application" (See MPEP § 707.07(f) (emphasis added)).

Due to the Official Action's incorrect reliance on prior art claims and confusing discussion of Hsu with respect to the Iwayama § 102 rejection, the necessary rebuttal has not been provided in the Official Action of May 20, 2005. Therefore, the grounds of rejection have not been clearly developed to such an extent that the Applicants can readily judge the advisability of an appeal. Accordingly, Applicants respectfully submit that the finality of the Official Action dated May 20, 2005 is premature and should be withdrawn.

REJECTION UNDER 35 U.S.C. § 102

The Official Action has rejected Claims 11 - 13 under 35 U.S.C. § 102 as being anticipated by Hsu. The Official Action states that Hsu discloses all of the Applicants' claim limitations. Applicants respectfully traverse the rejection.

Amended Claim 11 recites, *inter alia*, an information processing apparatus including:

... the compression program compressing, or the encryption program encrypting, content data supplied via the interface and having been provided in different formats, in the same format or different formats, respectively, for storage into the storage medium, and converting into a common format, when

⁴ See Paragraph 2 of the May 20, 2005 Official Action.

reading from the storage medium the content data having been compressed or encrypted in the different formats, respectively, for use by the apparatus or delivery to a predetermined portable device.

Hsu describes a computer system (10) for performing a system of file transformations, such as encryption compression encoding, translation and conversion. The system includes a central processing unit (12) connected to a bus (14) having main memory unit (16). A disk controller (18) is provided for accessing disk drive (22) for communicating data along the bus to peripheral devices generally designated (20).⁵

In operation, the Hsu system performs an encryption transform using the UNIX operating system. The system accesses a file storage subsystem for storing a file comprised of one or more blocks of data and a data storage subsystem for storing blocks of data in a first and second logical data area so that the processor executes instructions implementing a computer operating system in the first logical data area and an application program in the second logical data area.⁶

Conversely, in an exemplary embodiment of the Applicants' invention, an information processing apparatus is provided for receiving data of a first data format or different data formats for converting the received data format to a different data format or common data format including compression and encryption **in accordance with the format.** For example, when data is provided to the apparatus in an MP3 format, the data may be **compressed and encrypted in accordance with ATRAC3 formatting.**⁷ Thus, the type of compression and/or encryption is dictated by a desired format. Encryption and compression schemes themselves do not correspond to the claimed "format." Thus, the Official Action's citation of encryption and compression transforms as corresponding to the claimed format is

⁵ Hsu at Fig. 1; column 5, lines 42-53.

⁶ Hsu at column 5, line 42 through column 6, line 57; Abstract.

⁷ Application at page 24, lines 12-14.

clearly deficient in view of the plain language of the claims. The claims clearly recite that compression and encryption schemes are as dictated by format.

Hsu does not disclose or suggest receiving data in a first format and/or compressing the data **in accordance with a second data format** as recited in Applicants' Claim 11. Further, as Hsu deals with a specific operating system, such as UNIX, the processing of data in multiple data formats (i.e., operating systems) would render the Hsu device inoperable.

As Claims 11 and 13 recite substantially the same limitations discussed above, Applicants submit that these claims are likewise allowable over the cited reference. Accordingly, Applicants respectfully request that the rejection of Claims 11, 13 and 14 under 35 U.S.C. § 102 be withdrawn.

The Official Action has rejected Claims 15, 17, 18, 19, 21, and 28-35 under 35 U.S.C. § 102 as being anticipated by Iwayama. The Official Action states that Iwayama discloses all of the Applicants' claim limitations. Applicants respectfully traverse the rejection.

Amended Claim 15 recites, *inter alia*, an information processing apparatus, including:

... means for controlling the usage of the content data stored in the first storage area according to a result of a comparison made between the result of the computation made by the computing means and that of the past computation which is stored in the first storage area.

Iwayama describes a data content utilizing device having a data storing section (3), an information converting section (1) and a utilization permitting device (2).⁸ The data storing section stores encoded data contents and encoded content identification information. The information converting section decodes data contents of the data storing section for reproduction. The utilization permitting device receives information for converting section identification information, content identification information and random numbers from the

⁸ Iwayama at Fig. 1.

information converting section, and generates utilization permission information based on this information.⁹

In operation, the utilization permitting device generates utilization permission information for decoding data contents desired by a user from the data storing section. Conversely, an exemplary embodiment of the Applicants' invention, as recited in amended Claim 15, provides an information processing apparatus for managing content of a content data storage area in accordance with a computation based on management information. The structure is provided for controlling the usage of the content data according to a result of a comparison made between the result of the computation made by a computing structure and that of a past computation, which is stored in the first storage area. Iwayama does not disclose or suggest a comparison between a computation of a computing structure and that of a past computation, which is stored in a first storage area. As Claims 19 and 21 recite substantially the same limitations as discussed above, Applicants submit that these claims are likewise allowable over the cited reference.

Claims 28 – 35 recite a determination as to whether or not to move data stored in a first memory area to another apparatus along with the usage rule for the data. Iwayama does not disclose or suggest these aspects of the Applicants' invention. While the Official Action cites column 2, lines 49-57, as disclosing a permitting device, this permitting device is the control by which data is decoded; it is not an external apparatus, such as a portable music player for receiving data and associated usage rules. Accordingly, Applicants respectfully request that the rejection of Claims 15, 19, 21 and 28 – 35 under 35 U.S.C. § 102 be withdrawn.

⁹ Iwayama at column 8, lines 6 through column 9, line 36.

CONCLUSION

Should the above distinctions be found unpersuasive, Applicants respectfully request that the Examiner provide an explanation via Advisory Action pursuant to MPEP § 714.13 specifically rebutting the points raised herein for purposes of facilitating the appeal and/or appeal conference process.

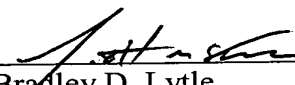
Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-4 and 9-35, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,
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